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August 23, 2005

8/24/05
Court is pleased that the Plaintiffs have provided the required disclosure. Nevertheless, to commence a DJ application without providing the adversary with required information is contrary to plaintiffs' own spirit of cooperation.
So Ordered
USMJ

**VIA ELECTRONIC FILING & FACSIMILE**

Honorable Michael L. Orenstein, U.S.M.J.
United States District Court
Eastern District of New York
Long Island Courthouse
100 Federal Plaza
Central Islip, NY 11722-4438

Re: S&L Vitamins v. Australian Gold
05-CV-1217 (JS) (MLO)

Dear Magistrate Judge Orenstein:

We represent S & L Vitamins and Larry Sagarin in the above-captioned matter. We are in receipt of Francis J. Earley's August 22, 2005, letter to the Court and respond thereto.

Preliminarily, we regret that our adversary has involved the Court in something which could have been resolved with a telephone call or a one sentence fax. To date, all counsel have enjoyed a productive professional relationship, and the mere courtesy of some simple correspondence from defense counsel could have averted this whole unnecessary exercise.

The fact is that we are now twelve days removed from Your Honor's signing the relevant Protective Order, hardly evidence of a refusal to comply with the Court's order or to cooperate with defense counsel. We have never refused to turn over the names of our clients' suppliers – indeed, my colleague, Ronald Coleman, told opposing counsel just last week that the information would be forthcoming – nor was there ever any discussion among counsel as to a deadline by which the names were to be disclosed. Had defense counsel stated that they needed the names of the suppliers by August 22, we certainly would have tried to accommodate them in this regard.

We have obtained the names of the suppliers from our clients and sent them to Mr. Earley today. Therefore, we trust that there is no need for the Court's involvement at this time. In the future, we hope that our adversaries will contact us directly if they need something rather than both wasting the Court's time and creating a self-serving paper trail.

Respectfully submitted,

David Stein

cc: Francis J. Earley, Esquire
Scott D. Matthews, Esquire